



City of Portland, Oregon
Bureau of Development Services
Land Use Services

FROM CONCEPT TO CONSTRUCTION

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Date: January 10, 2013
To: Interested Person
From: Kathleen Stokes, Land Use Services
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NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has **approved** a proposal in your neighborhood. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 12-203961 AD

GENERAL INFORMATION

Applicant: Matthew McCune, McCune Design, 2812 NE 8th Ave, Portland OR 97212
Owners: Walter P & Marliza A Raney, 3714 N Haight Ave, Portland, OR 97227-1328
Site Address: 3714 N HAIGHT AVE
Legal Description: BLOCK 26 INC STRIP 8' WIDE E OF & ADJ LOT 10, CENTRAL ALBINA
Tax Account No.: R146804440
State ID No.: 1N1E22DC 08800
Quarter Section: 2630
Neighborhood: Boise, Christine Dao, at 503-544-5515.
Business District: North-Northeast Business Assoc, Joice Taylor at 503-445-1321.
District Coalition: Northeast Coalition of Neighborhoods, Chris Lopez at 503-823-4575.
Zoning: R2.5a (R2,500, Attached Single-dwelling Residential, with an Alternative Design Density Overlay)
Case Type: Adjustment Review
Procedure: Type II, administrative decision with appeal to Adjustment Committee.

Proposal: The applicants are proposing to convert an existing detached garage, for use as a 746 square-foot accessory dwelling unit. The proposal includes construction of a 232.5 square-foot addition that would extend the building an additional 10 feet to the south and would extend the same roof line, along the north/south ridge line, maintaining the roof pitch of the existing structure.

The Portland Zoning Code, Title 33, allows accessory dwelling units in the single-dwelling zones. In this case, a unit that is up to 800 square feet would be allowed in a detached structure. The Code also contains design standards that must be met for these accessory units, including a requirement that the roof pitch match that of the primary dwelling unit. (Roof pitch is a measurement, given in inches, of the amount of height or "rise" that is gained for each increment of horizontal extension or "run"). The eaves of the structure are also required to either match the primary dwelling or extend for one-foot from the accessory structure. Exceptions to these requirements are approved through Adjustment Reviews, when

all of the relevant approval criteria are met or if the criteria can be met through conditions of approval.

In this case, the primary dwelling unit has a roof pitch of 10 in 12 and the garage has a roof pitch of 10 in 12 on the east side and about 12 in 12 on the west side, which the applicants wish to maintain in the new section that would be added on the south side of the building.

The primary dwelling has a “dutch hip” roof, which has returns at the edge of the roof line that extend beyond the building wall, but do not constitute traditional roof eaves. The existing garage has an eave that extends for one-foot on the east side and has a rafter tail that extends for about 2 feet, 3 inches and then wraps under at an angle, rather than an eave, on the west side. The applicants are also proposing to maintain these eave treatment features of the garage roof line in the addition.

Therefore, the applicants are requesting approval of Adjustments to Code Section 33.205.030 C, to allow the addition to the garage to be built with an extension of the roof at the same pitch and with the same eaves and rafter details as the existing structure.

Relevant Approval Criteria: To be approved, this proposal must comply with the approval criteria of 33.805.040 A.-F., Adjustments, cited below.

ANALYSIS

Site and Vicinity: The site is a 5,400 square-foot property that is located on the east side of North Haight Avenue, one lot to the north of the intersection with North Beech Street. The site is developed with a single-dwelling residence that was constructed in 1927. The property also contains a detached garage that is located, to the rear of the house, in the northeast corner of the lot. The area around the site is generally developed in a similar fashion, mainly with single-dwelling residences that were constructed in the early part of the 1900s. There are also a few more recent infill properties with single-dwelling residences in the surrounding area. The development pattern on the block where the site is located deviates from the overall historical pattern of the surrounding neighborhood, as it also contains some multi-dwelling housing and a church.

Zoning: The zoning for this site is R2.5, Attached Residential. This zone is intended for areas with complete public services and without development constraints. The zone allows a mixture of housing types of a single-dwelling character, including attached houses. The maximum density is generally 17.4 units per acre or one unit per 2,500 square feet. To allow the fulfillment of these densities, the allowed scale of development is greater than for other single-dwelling housing structure types.

The site also has an “a” or Alternative Design Density Overlay. This zone provides the opportunity for additional residential density in some situations, when design standards are met. The provisions of this zone are not applicable to this proposal.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **December 10, 2012**. The following Bureaus have responded to say that there are no issues or concerns related to approval of the requested Adjustments. Agencies that provided written comments regarding information for building permit submittal are noted with exhibit numbers:

- Environmental Services noted sewer upgrades that may be required and discussed regulations that apply to stormwater management (Exhibit E-1).
- Transportation Engineering provided an electronic response of no concerns.
- Water Bureau provided information on the existing water service and discussed potential requirements for service for the proposed ADU (Exhibit E-2).
- Fire Bureau provided an electronic response of no concerns.
- Site Development Section of BDS provided an electronic response of no concerns.

- Life Safety Plan Review Section of BDS noted that a building permit is currently under review (Exhibit E-3).
- Parks-Forestry Division provided an electronic response of no concerns.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on December 10, 2012. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose of Adjustments The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

33.805.040 Adjustment Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. stated below, have been met.

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: *Standards for creating accessory dwelling units address the following purposes:*

- *Ensure that accessory dwelling units are compatible with the desired character and livability of Portland's residential zones;*
- *Respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards;*
- *Ensure that accessory dwelling units are smaller in size than houses, attached houses, or manufactured homes; and*
- *Provide adequate flexibility to site buildings so that they fit the topography of sites.*

The proposed ADU will be compatible with the scale, placement and building style of the main dwelling unit and will not predominate the appearance of the site. Maintaining the same roof pitch and eave treatment for the addition to the garage is the most reasonable and efficient way to modify the garage to add the ADU, and will still meet the purpose of the regulations. Therefore, this criterion is met.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings:

The requested Adjustments will allow the proposed addition to be constructed in a manner that is consistent with the appearance of the main dwelling unit and reuses the existing garage. The proposed modifications to the structure will be attractive and will have no impacts on the livability of the residential area. Therefore, this criterion is met.

- C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: Two adjustments have been requested, in order to facilitate the construction of an addition to the existing structure that matches the roof line and eave treatment of the garage. Construction of the addition will allow the applicants to convert the structure to

use as an accessory dwelling unit, or ADU, which is allowed in all single dwelling zones. The purpose of these zones is to preserve land for housing and to provide housing opportunities for individual households. The addition of an ADU facilitates this purpose by offering more housing choices and assisting home owners to maintain their occupancy through the economic and/or social aide of having a second household on the site. This criterion is met.

- D.** City-designated scenic resources and historic resources are preserved; and
- E.** Any impacts resulting from the adjustment are mitigated to the extent practical.
- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable.

Findings: There are no scenic or historic resources on the site; no impacts that might result from approval of the Adjustments have been identified, and the site is not located in an environmental zone. Therefore these criteria do not apply.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The requested Adjustments meet all of the relevant approval criteria. The purposes of the design standards for ADUs will be equally met by the proposed addition, even though the predominant roof pitch and the style of the eaves will vary somewhat from the main dwelling unit. The addition to the garage will be attractive and it will not create any negative impacts on the livability of the residential area. Reuse of the existing detached garage to create a detached ADU is consistent with the purpose of the R2.5 zone. The Adjustments can be approved in general compliance with the proposed site plan and elevation drawings.

ADMINISTRATIVE DECISION

Approval of Adjustments to Code Section 33.205.030 C, to allow the addition to the garage to be built with an extension of the roof at the same pitch and with the same eaves and rafter details the same as the existing structure., in general compliance with the approved site plans, Exhibits C-1 through C-2, signed and dated January 8, 2013, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 12-203961 AD."

Staff Planner: Kathleen Stokes



Decision rendered by: _____ **on January 8, 2013**

By authority of the Director of the Bureau of Development Services

Decision mailed: January 10, 2013

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on November 9, 2012, and was determined to be complete on December 6, 2012.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on November 9, 2012.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless extended by the applicant, **the 120 days will expire on: April 5, 2013.**

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on January 24, 2013** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is

final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **January 25, 2013– (the day following the last day to appeal)**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Application and original narrative and plans
 - 2. Additional information, received December 5, 2012
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevation Drawings (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Water Bureau
 - 3. Life Safety Plan Review Section of BDS
 - 4. Summary of electronic responses from City service agencies
- F. Correspondence: (none received)
- G. Other:
 - 1. Letter from Kathleen Stokes to Matthew McCune, November 16, 2012

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).

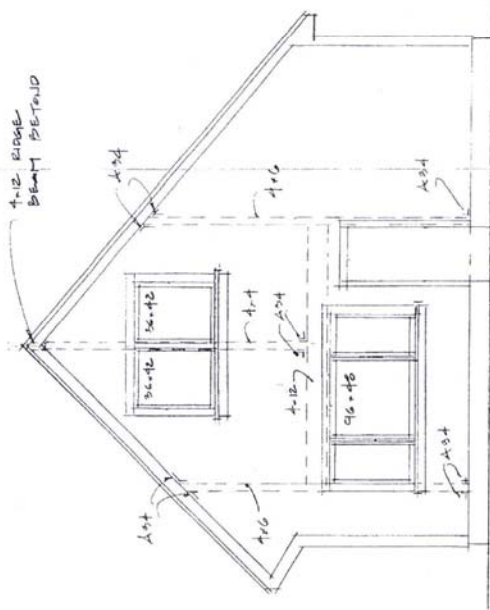


ZONING

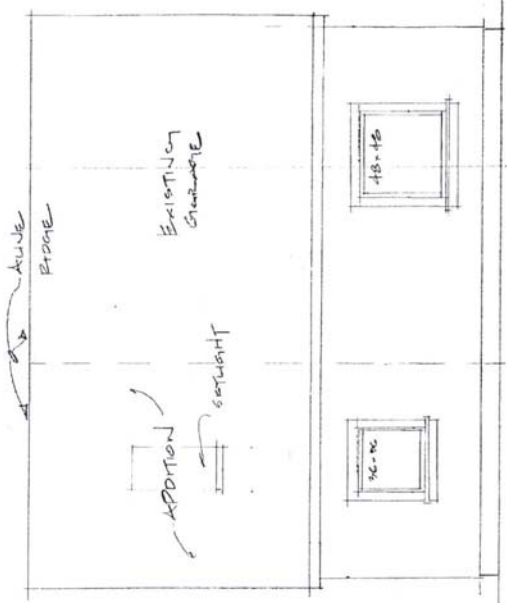
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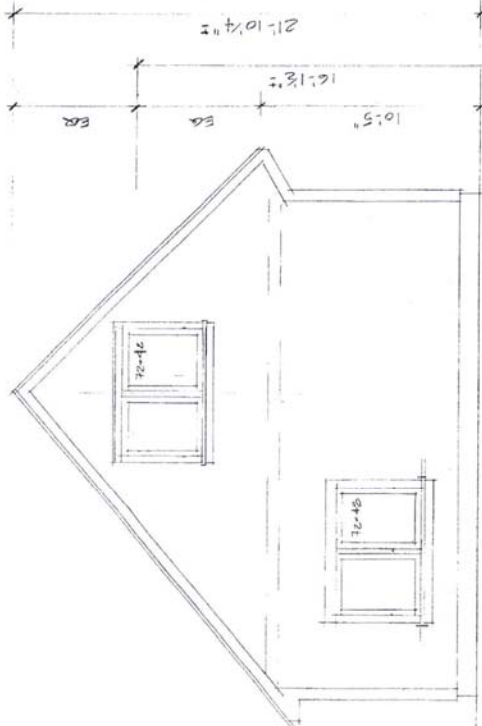
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 1/4 Section 2630
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 Exhibit B (Nov 13, 2012)



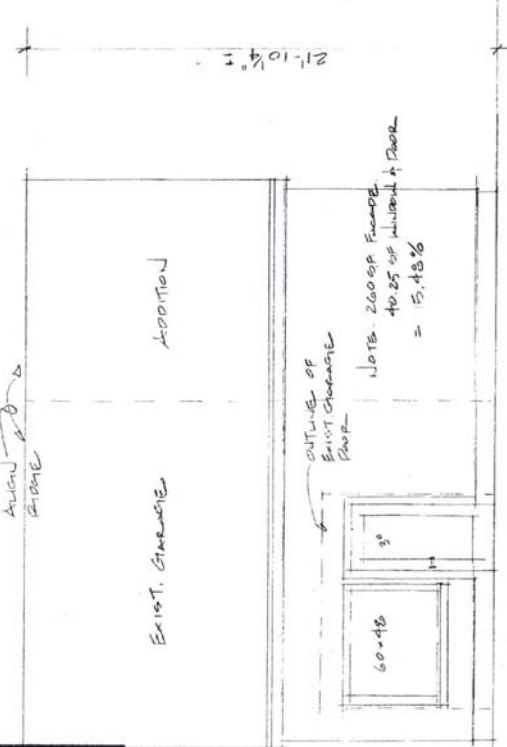
2 SOUTH ELEVATION
A-3 SCALE: 1/4" = 1'-0"



4 EAST ELEVATION
A-3 SCALE: 1/4" = 1'-0"



1 NORTH ELEVATION
A-3 SCALE: 1/4" = 1'-0"



3 WEST ELEVATION
A-3 SCALE: 1/4" = 1'-0"

Approved
 City of Portland - Bureau of Development Services
 Planner Kathleen A. Stokes Date January 8, 2013
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

Exhibit C-2
 LU 12-203961 AD